IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

Crl.Rev.Pet.No. 898 of 2000()

CC.261/1997 of JUDL.MAGISTRATE OF FIRST CLASS-I, THAMARASSERY
CRA.506/1999 of ADDL.SESSIONS COURT-II, KOZHIKODE

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REVN. PETITIONER: APPELLANT/ACCUSED

JANU, W/O.SASI, KOTTAKULATHIL HOUSE
PUTHUPPADI AMSOM, DESOM, KOZHIKODE

BY ADV. SRI.R.BINDU (SASTHAMANGALAM)
SRI.R. JAYAKRISHNAN

RESPONDENTS: RESPONDENT/COMPLAINANT

STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 23/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.R.P.No.898 of 2000

Dated this the 23rd day of October, 2007

O R D E R

The revision petitioner stands convicted for the offence under Section 55(a) of the Abkari Act and sentenced to undergo simple imprisonment for one year and to pay a fine of Rs.25,000/- and in default, to undergo simple imprisonment for three months.

2. The prosecution version is that on 5.2.1997 at about 5.30 p.m. the accused was found transporting 5 litres of illicit arrack in a plastic can.

3. The evidence adduced in the matter consisted of the testimony of PWs' 1 to 5, Exts. P1 to P5 and MO1.

4. PW1 is the Preventive officer who detected the offence. PW2 is the Excise Guard who was along with PW1. PWs' 3 and 4, the independent witnesses, who attested the recovery mahazar turned hostile. PW5 is the charging officer. The evidence of PWs' 1 and 2, the official witnesses do corroborate on material particulars. The sample as per Ext. P5 chemical analysis report was found to contain 24.45% by volume

of ethyl alcohol. I find that no contractions in the version of PWs' 1 and 2 with respect to the incident has been brought out and there is nothing to disbelieve the version of the above witnesses. In the circumstances conviction is confirmed.

5. The counsel for revision petitioner has pleaded for leniency pointing out that the accused is a lady and more than 10 years have elapsed since the commencement of the proceedings and the quantity involved is not large. In the circumstances, the sentence is modified to imprisonment till the rising of the court and to pay a fine of Rs.25,000/- and in default, to undergo simple imprisonment for three months. The revision petitioner is granted three months' time to remit the fine amount. She shall appear before the Judicial First Class Magistrate Court-I, Thamarassery on 23.1.2008 to receive the sentence.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl

K.R.UDAYABHANU, J

R.P.(FC)No.108/2003

ORDER

22/10/2007